

The Honorable Christopher M. Alston
Chapter 11
Hearing Date: July 6, 2018
Hearing Time: 9:30 a.m.
Location: Courtroom 7206

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON

In re

NORTHWEST TERRITORIAL MINT, LLC,

Debtor.

No. 16-11767-CMA

SUPPLEMENTAL MEMORANDUM
REGARDING TRUSTEE'S MOTION
TO ABANDON RECORDS

This memorandum is submitted in connection with the continued hearing on the Trustee’s motion to abandon records (ECF 1541) (the “Records Motion”). The purpose of this memorandum is to advise the Court of the status of evidence preservation issues in *United States v. Ross Hansen & Diane Erdmann*, CR 18-92RAJ (W.D. Wash) (the “Criminal Case”), and to address the remaining issues related to documents that are not subject to the Criminal Case and/or that may not be property of the estate.

I. BACKGROUND

1. On April 12, 2018, a Grand Jury indicted Mr. Hansen and his partner, Diane Erdman, in the Criminal Case. Mr. Hansen self-surrendered and was released on an Appearance Bond that restricts his employment with precious metals and any travel without the United States Probation Department's permission. *Id.* at Dkt. 13 (Appearance Bond).

2. In the Records Motion, the Trustee seeks authority to dispose of records at NWTM's Dayton facility and to abandon a server and data stored on the server. While the

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4850-6887-3580v1.0106937-000001

Davis Wright Tremaine LLP
LAW OFFICES
1201 Third Avenue, Suite 2200
Seattle, WA 98101-3045
206.622.3150 main • 206.757.7700 fax

1 Trustee has provided differing estimates of the volume of physical records, it now appears that
2 more than 2,000 boxes are involved. Whether the Trustee is allowed to abandon a server, thus
3 deleting the data stored therein, or records created from 2009 forward is now before the
4 Honorable Richard A. Jones, United States District Court Judge, in the Criminal Case. *See*,
5 *e.g.*, Dkt. 30 (Motion for Order to Prevent Spoliation of Evidence filed in the Criminal Case).

6 3. The Trustee filed notice in the Criminal Case that he is an “interested party” for
7 the limited purpose of addressing the preservation of the server(s) and boxed records, and
8 appeared at the hearing on that matter held before Judge Jones on June 12, 2018.

9 4. At the hearing on June 12, Judge Jones directed the parties to meet and confer
10 regarding a practical solution to the issues presented and appear again on July 5, 2018,
11 regarding that effort.

12 5. Defense counsel for Ms. Erdman and Mr. Hansen, the Government and counsel
13 for the Trustee, have met and conferred several times. They are working on an agreement
14 related to the server and transfer of physical records created after 2008. Below is counsel’s
15 understanding of the discussions:

16 (a) The lease for the Nevada warehouse expires July 31, 2018.

17 (b) The servers will be preserved, and counsel for the Trustee is researching
18 means to reduce costs, as well as produce a mirror image of the data contained therein
19 from 2016 through the liquidation of NWTM for the Government and defense counsel.

20 (c) The Trustee provided the Government and defense team access to the
21 Nevada warehouse June 27 and June 28, 2018. It turns out there are more than 1400
22 boxes identified as records from the years 2009 through 2016 related to the business of
23 NWTM, and segregated accordingly.

24 (d) The Government and Mr. Hansen’s defense counsel agree that the years
25 2009 through 2016 are relevant to the pending criminal matter. The Trustee has agreed
26 to transfer custody of any and all boxes from 2009 through 2016 to the Government in
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1 the near future for storage and accessibility to defense counsel and the Government in
2 Washington.

3 (e) The parties also agree that any remaining boxes stored in the Nevada
4 warehouse are irrelevant to further bankruptcy proceedings. No one has catalogued the
5 records in remaining boxes, and Mr. Hansen believes that, in addition to old NWTM
6 records, they contain personal records and records of businesses unrelated to NWTM
7 dating back from 2008 to the 1980s.

8 (f) The Trustee has indicated through counsel that he does not oppose the
9 abandonment to Mr. Hansen of what is estimated to be approximately 1100 boxes of
10 records from 1980 to 2008 and defers to this Court on whether to return the boxes of
11 records to Mr. Hansen.

12 (g) As indicated in the Records Motion, the boxes of records from the 1980s
13 to 2008 are of inconsequential value to the estate and in fact, are burdensome and costly
14 to store. In contrast, the records are important to Mr. Hansen.

15 6. Mr. Hansen is prepared to make arrangements, with the consent and approval of
16 the United States Probation Office, to travel to Nevada and obtain the boxes of records before
17 the warehouse lease ends on July 31, 2018, at his own financial cost.

18 II. CONCLUSION

19 Mr. Hansen requests entry of an order authorizing the abandonment by the Debtor or all
20 records created before January 1, 2009 to Mr. Hansen.

21 Respectfully submitted this 3rd day of July, 2018.

22 Davis Wright Tremaine LLP
23 Attorneys for Ross Hansen

24 By /s/ Ragan L. Powers
25 Ragan L. Powers, WSBA #11935

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LAW OFFICES
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Seattle, WA 98101-3045
206.622.3150 main • 206.757.7700 fax

PROOF OF SERVICE

I certify that on July 3, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to those attorneys of record registered on the CM/ECF system:

DATED this 3rd day of July, 2018.

/s/ Ragan L. Powers
Ragan L. Powers, WSBA #11935

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